



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,636	03/30/2001	Lalit Merani	04073P016	6931

7590

01/21/2004

Robert B. O'Rourke  
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP  
Seventh Floor  
12400 Wilshire Boulevard  
Los Angeles, CA 90025-1026

EXAMINER

RYMAN, DANIEL J

ART UNIT	PAPER NUMBER
2665	

DATE MAILED: 01/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/823,636

Applicant(s)

MERANI ET AL.

Examiner

Daniel J. Ryman

Art Unit

2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☒ Claim(s) 2,4,29 and 44 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7. 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. Figures 1a, 1b, 1c, and 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: ref. 500b, 509, 550 (see page 23, line 10-page 24, line 23 and Fig. 5b); ref. 710 (see pages 37-47 and Fig. 7); ref. 800, 801 (see page 45-53 and Fig. 8); and ref. 910, 911 (see page 54 and Fig. 9). A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

3. Claim 2 is objected to because of the following informalities: in line 9 “than” should be “that”. Appropriate correction is required.

4. Claim 4 is objected to because of the following informalities: in line 2 “a port to which said” should be “a port to which said queues belong” (see claim 18). Appropriate correction is required.

5. Claims 29 and 44 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or

Art Unit: 2665

rewrite the claim(s) in independent form. Claims 29 and 44 repeat the limitation of claim 15, which is a claim that claims 29 and 44 depend upon.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 4, 7, 12, 13, 16, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoffman et al (USPN 6,094,435).

8. Regarding claim 1, Hoffman discloses an apparatus, comprising: a queue scheduler that distributes a partition worth of bandwidth to a plurality of queues according to a weight assigned to each of said queues (col. 20, lines 23-col. 21, line 35), said plurality of queues arranged from a highest priority to a lowest priority (col. 19, line 20-col. 20, line 58), said queues serviced by said scheduler until each of said corresponding weights is consumed for each queue, and wherein higher priority queues are serviced before lower priority queues (Fig. 2, 3, and 8 and col. 18, line 35-col. 21, line 35).

9. Regarding claim 4, referring to claim 1, Hoffman inherently discloses that each of said packet identifiers further comprise the same Port-ID value that identifies a port to which said queues belong (col. 18, line 10-col. 19, line 20).

10. Regarding claim 7, referring to claim 4, Hoffman discloses that one of said queues is said highest priority queue (col. 18, line 35-col. 21, line 35).

Art Unit: 2665

11. Regarding claim 12, referring to claim 1, Hoffman discloses that the partition worth of data is a scheduling cycle partition worth of data, wherein one scheduling cycle partition worth of data per scheduling cycle corresponds to a data rate that is a highest data rate managed by a networking system to which each of said queues belong (col. 18, line 35-col. 21, line 35).

12. Regarding claim 13, referring to claim 1, Hoffman discloses that each of said weights add up to a value that represents 100% or less of said partition worth of data (col. 18, line 35-col. 21, line 35).

13. Regarding claim 16, referring to claim 1, Hoffman discloses that if more than an active queue's sub-partition worth of data had flowed while it was active, the difference between the amount of data that flowed and said sub-partition worth of data is subtracted from said active queue's sub partition worth of data in order to reduce the flow the next time said active queue becomes active (col. 18, line 35-col. 21, line 35, esp. col. 21, lines 17-35).

14. Regarding claim 19, referring to claim 16, Hoffman discloses that the port handles packets destined to the same user (col. 7, lines 4-25 and col. 10, lines 21-30).

15. Claim 2 is rejected under 35 U.S.C. 102(b) as being anticipated by Sriram (USPN 5,463,620).

16. Regarding claim 2, Sriram discloses a method, comprising: a) dividing a total amount of data, based upon an individual weight assigned to each of a plurality of queues, an amount of data that each of said queues may service (Fig. 5; col. 1, lines 58-col. 2, line 9; and col. 5, line 51-col. 6, line 62); b) servicing one or more populated queues, each of said servicing of a populated queue continuing until said populated queue is no longer populated or said amount of data determined for said populated queue has been released (Fig. 7; col. 6, lines 20-62; and col.

9, lines 25-65); and c) servicing one or more of said queues that remain populated, if any, until said total amount of data has been released from all of said queues in combination including said servicing of said populated queues (Fig. 7; col. 6, lines 20-62; and col. 9, lines 25-65).

***Claim Rejections - 35 USC § 103***

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 3, 5, 17, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sriram (USPN 5,463,620) in view of Hoffman et al (USPN 6,094,435).

19. Regarding claims 3, 17, and 32, Sriram discloses a method and apparatus, the method comprising the steps of and the apparatus comprising a scheduler for: a) distributing a partition worth of data across a plurality of queues according to a weight assigned to each of said queues so that each of said queues has its own sub-partition worth of data (Fig. 5; col. 1, lines 58-col. 2, line 9; and col. 5, line 51-col. 6, line 62), said plurality of queues ranging from a highest priority queue to a lowest priority queue (col. 1, lines 58-col. 2, line 9; col. 3, line 56-col. 4, line 63; and col. 5, line 51-col. 6, line 62); b) flowing a flow of one or more packet identifiers from an active populated queue, until: 1) its unpopulated if less than its sub-partition worth of data has flowed (Fig. 7; col. 6, lines 20-62; and col. 9, lines 25-65), or until 2) its sub-partition worth of data has flowed (Fig. 7; col. 6, lines 20-62; and col. 9, lines 25-65), or until 3) the combination of flows from those of said queues that have been active results in said partition worth of data having flowed from said those of said queues that have been active, as a whole (Fig. 7; col. 6, lines 20-

62; and col. 9, lines 25-65), wherein a populated queue is deemed active if it is the highest priority populated queue out of those of said populated queues that have not yet been deemed active, such that populated queues are deemed active in succession until the lowest priority populated queue has been deemed active or until the combination of flows from those of said queues that have been active results in said partition worth of data having flowed from said those of said queues that have been active, as a whole (Fig. 7; col. 6, lines 20-62; and col. 9, lines 25-65); and c) if: 1) one or more populated queues exist after each of said populated queues has been active (Fig. 7; col. 6, lines 20-62; and col. 9, lines 25-65), and 2) said combination of flows from those of said queues that have been active results in less than said partition worth of data having flowed from said those of said queues that have been active, as a whole (Fig. 7; col. 6, lines 20-62; and col. 9, lines 25-65); then: 1) flowing one or more additional flows from said one or more populated queues until said partition worth of data has flowed from said queues as a whole (Fig. 7; col. 6, lines 20-62; and col. 9, lines 25-65), or until 2) each of said queues is unpopulated if each of said queues becomes unpopulated before said partition worth of data has flowed from said queues as a whole (Fig. 7; col. 6, lines 20-62; and col. 9, lines 25-65). Sriram does not expressly disclose that each of the queues is capable of holding one or more packet identifiers, where each of the one or more packet identifiers points to its own packet. Hoffman discloses, in a system for scheduling data from a node, having each of the queues be capable of holding one or more packet identifiers, where each of the one or more packet identifiers points to its own packet (col. 18, line 11-col. 19, line 20) where it is implicit that this is done in order to allow scheduling to be done without the need to transfer the entire packet to the scheduler. It would have been obvious to one of ordinary skill in the art at the time of the invention to have

each of the queues be capable of holding one or more packet identifiers, where each of the one or more packet identifiers points to its own packet in order to allow scheduling to be done without the need to transfer the entire packet to the scheduler.

20. Regarding claim 5, referring to claim 2, Sriram does not expressly disclose that the port handles packets destined to the same user. Hoffman discloses that the port handles packets destined to the same user since each user is attached to a single port (col. 7, lines 4-25 and col. 10, lines 21-30). It would have been obvious to one of ordinary skill in the art at the time of the invention to have the port handle packets destined to the same user since each user is attached to a single port

21. Claims 6, 8-11, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al (USPN 6,094,435) as applied to claim 1 above, and further in view of Sriram (USPN 5,463,620).

22. Regarding claim 6, referring to claim 1, Hoffman does not expressly disclose that one of said queues receives only those of said packet identifiers that each point to its own networking control packet. Sriram discloses, in a system for scheduling data from a node, having one of the queues receive only those of the packet identifiers that each point to its own networking control packet (col. 1, lines 18-35) where it is implicit that this is done in order to allow a different priority to be allocated to the control packet. It would have been obvious to one of ordinary skill in the art at the time of the invention to have one of the queues receive only those of the packet identifiers that each point to its own networking control packet in order to allow a different priority to be allocated to the control packet.



23. Regarding claim 8, referring to claim 1, Hoffman does not expressly disclose that one of said queues receives only those of said packet identifiers that each point to its own real time traffic packet. Sriram discloses, in a system for scheduling data from a node, having one of said queues receive only those of said packet identifiers that each point to its own real time traffic packet in order to schedule packets according to bandwidth and latency requirements (col. 1, lines 58-col. 2, line 9; col. 3, line 56-col. 4, line 63; and col. 5, line 51-col. 6, line 62). It would have been obvious to one of ordinary skill in the art at the time of the invention to have one of said queues receive only those of said packet identifiers that each point to its own real time traffic packet in order to schedule packets according to bandwidth and latency requirements.

24. Regarding claim 9, referring to claim 6, Hoffman in view of Sriram discloses that the one of said queues is a second highest priority queue (Hoffman: col. 18, line 35-col. 21, line 35).

25. Regarding claim 10, referring to claim 1, Hoffman does not expressly disclose that one of said queues receives only those of said packet identifiers that each point to its own fast data traffic packet. Sriram discloses, in a system for scheduling data from a node, having one of said queues receive only those of said packet identifiers that each point to its own fast data traffic packet in order to schedule packets according to bandwidth and latency requirements (col. 1, lines 58-col. 2, line 9; col. 3, line 56-col. 4, line 63; and col. 5, line 51-col. 6, line 62). It would have been obvious to one of ordinary skill in the art at the time of the invention to have one of said queues receive only those of said packet identifiers that each point to its own fast data traffic packet in order to schedule packets according to bandwidth and latency requirements.

26. Regarding claim 11, referring to claim 8, Hoffman does not expressly disclose that the one of said queues receives only those of said packet identifiers that each point to its own

Art Unit: 2665

traditional data traffic packet. Sriram discloses, in a system for scheduling data from a node, having one of said queues receive only those of said packet identifiers that each point to its own traditional data traffic packet in order to schedule packets according to bandwidth and latency requirements (col. 1, lines 58-col. 2, line 9; col. 3, line 56-col. 4, line 63; and col. 5, line 51-col. 6, line 62). It would have been obvious to one of ordinary skill in the art at the time of the invention to have one of said queues receive only those of said packet identifiers that each point to its own traditional data traffic packet in order to schedule packets according to bandwidth and latency requirements.

27. Regarding claim 14, referring to claim 11, Hoffman in view of Sriram does not expressly disclose that each of said weights are equal; however, Hoffman in view of Sriram does disclose the use of weights (Hoffman: col. 18, line 35-col. 21, line 35). Hoffman in view of Sriram also recognizes that variations of the disclosed embodiment are possible (Hoffman: col. 6, lines 30-40). Moreover, it is generally considered to be within the ordinary skill in the art to adjust, vary, select, or optimize the numerical parameters or values of any system absent a showing of criticality in a particular recited value. The burden of showing criticality is on applicant. In re Mason, 87 F.2d 370, 32 USPQ 242 (CCPA 1937); Marconi Wireless Telegraph Co. v. U.S., 320 U.S. 1, 57 USPQ 471 (1943); In re Schneider, 148 F.2d 108, 65 USPQ 129 (CCPA 1945); In re Aller, 220 F.2d 454, 105 USPQ 233 (CCPA 1055); In re Saether, 492 F.2d 849, 181 USPQ 36 (CCPA 1974); In re Antonie, 559 F.2d 618, 195 USPQ 6 (CCPA 1977); In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Since Hoffman in view of Sriram discloses the use of weights, any value for the weights, including having the weights be of equal value, would have been obvious absent a showing of criticality by Applicant.

Art Unit: 2665

28. Claims 15, 18, 21, 26, 27, 29-31, 33, 34, 36, 41, 42, 44, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al (USPN 6,094,435) as applied to claim 1 above, and further in view of Yin et al (USPN 5,982,748).

29. Regarding claims 15, 29, and 44, referring to claim 1, Hoffman does not expressly disclose that each of said weights add up to a value that represents more than 100% of said partition worth of data. Yin teaches, in a system for allocating bandwidth for traffic flows, over-subscribing a connection (each of said weights add up to a value that represents more than 100% of said partition worth of data) in order to allow additional connection requests that would otherwise be rejected (col. 7, lines 35-61). It would have been obvious to one of ordinary skill in the art at the time of the invention to have each of said weights add up to a value that represents more than 100% of said partition worth of data in order to allow additional connection requests that would otherwise be rejected.

30. Regarding claim 30, referring to claim 15, Hoffman in view of Yin discloses that the flowing one or more additional flows further comprises flowing packet identifiers from a next queue, said next queue following a previous queue that flowed an additional flow to consume a previous distribution of a partition worth of data (Hoffman: col. 18, line 35-col. 21, line 35).

31. Regarding claims 18 and 33, referring to claims 15 and 30, Hoffman in view of Yin inherently discloses that each of said packet identifiers further comprise the same Port-ID value that identifies a port to which said queues belong (Hoffman: col. 18, line 10-col. 19, line 20).

32. Regarding claims 21 and 36, referring to claims 18 and 33, Hoffman in view of Yin discloses that the one of said queues is said highest priority queue (Hoffman: col. 18, line 35-col. 21, line 35).

33. Regarding claims 26 and 41, referring to claims 15 and 30, Hoffman in view of Yin discloses that the partition worth of data is a scheduling cycle partition worth of data, wherein one scheduling cycle partition worth of data per scheduling cycle corresponds to a data rate that is a highest data rate managed by a networking system to which each of said queues belong (Hoffman: col. 18, line 35-col. 21, line 35).

34. Regarding claims 27 and 42, referring to claims 15 and 30, Hoffman in view of Yin discloses that each of said weights add up to a value that represents 100% or less of said partition worth of data (Hoffman: col. 18, line 35-col. 21, line 35).

35. Regarding claims 31 and 45, referring to claims 15 and 30, Hoffman in view of Yin discloses that if more than an active queue's sub-partition worth of data had flowed while it was active, the difference between the amount of data that flowed and said sub-partition worth of data is subtracted from said active queue's sub partition worth of data in order to reduce the flow the next time said active queue becomes active (Hoffman: col. 18, line 35-col. 21, line 35, esp. col. 21, lines 17-35).

36. Regarding claim 34, referring to claim 31, Hoffman in view of Yin discloses that the port handles packets destined to the same user (Hoffman: col. 7, lines 4-25 and col. 10, lines 21-30).

37. Claims 20, 22-25, 28, 35, 37-40, and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al (USPN 6,094,435) in view of Yin et al (USPN 5,982,748) as applied to claim 15 above, and further in view of Sriram (USPN 5,463,620).

38. Regarding claims 20 and 35, referring to claims 15 and 30, Hoffman in view of Yin does not expressly disclose that one of said queues receives only those of said packet identifiers that each point to its own networking control packet. Sriram discloses, in a system for scheduling

Art Unit: 2665

data from a node, having one of the queues receive only those of the packet identifiers that each point to its own networking control packet (col. 1, lines 18-35) where it is implicit that this is done in order to allow a different priority to be allocated to the control packet. It would have been obvious to one of ordinary skill in the art at the time of the invention to have one of the queues receive only those of the packet identifiers that each point to its own networking control packet in order to allow a different priority to be allocated to the control packet.

39. Regarding claims 22 and 37, referring to claims 15 and 30, Hoffman in view of Yin does not expressly disclose that one of said queues receives only those of said packet identifiers that each point to its own real time traffic packet. Sriram discloses, in a system for scheduling data from a node, having one of said queues receive only those of said packet identifiers that each point to its own real time traffic packet in order to schedule packets according to bandwidth and latency requirements (col. 1, lines 58-col. 2, line 9; col. 3, line 56-col. 4, line 63; and col. 5, line 51-col. 6, line 62). It would have been obvious to one of ordinary skill in the art at the time of the invention to have one of said queues receive only those of said packet identifiers that each point to its own real time traffic packet in order to schedule packets according to bandwidth and latency requirements.

40. Regarding claims 23 and 38, referring to claims 20 and 35, Hoffman in view of Yin in further view of Sriram discloses that the one of said queues is a second highest priority queue (Hoffman: col. 18, line 35-col. 21, line 35).

41. Regarding claims 24 and 39, referring to claims 15 and 30, Hoffman in view of Yin does not expressly disclose that one of said queues receives only those of said packet identifiers that each point to its own fast data traffic packet. Sriram discloses, in a system for scheduling data

Art Unit: 2665

from a node, having one of said queues receive only those of said packet identifiers that each point to its own fast data traffic packet in order to schedule packets according to bandwidth and latency requirements (col. 1, lines 58-col. 2, line 9; col. 3, line 56-col. 4, line 63; and col. 5, line 51-col. 6, line 62). It would have been obvious to one of ordinary skill in the art at the time of the invention to have one of said queues receive only those of said packet identifiers that each point to its own fast data traffic packet in order to schedule packets according to bandwidth and latency requirements.

42. Regarding claims 25 and 40, referring to claims 22 and 37, Hoffman in view of Yin does not expressly disclose that one of said queues receives only those of said packet identifiers that each point to its own traditional data traffic packet. Sriram discloses, in a system for scheduling data from a node, having one of said queues receive only those of said packet identifiers that each point to its own traditional data traffic packet in order to schedule packets according to bandwidth and latency requirements (col. 1, lines 58-col. 2, line 9; col. 3, line 56-col. 4, line 63; and col. 5, line 51-col. 6, line 62). It would have been obvious to one of ordinary skill in the art at the time of the invention to have one of said queues receive only those of said packet identifiers that each point to its own traditional data traffic packet in order to schedule packets according to bandwidth and latency requirements.

43. Regarding claims 28 and 43, referring to claims 25 and 40, Hoffman in view of Yin in further view of Sriram does not expressly disclose that each of said weights are equal; however, Hoffman in view of Yin in further view of Sriram does disclose the use of weights (Hoffman: col. 18, line 35-col. 21, line 35). Hoffman in view of Yin in further view of Sriram also recognizes that variations of the disclosed embodiment are possible (Hoffman: col. 6, lines 30-

Art Unit: 2665

40). Moreover, it is generally considered to be within the ordinary skill in the art to adjust, vary, select, or optimize the numerical parameters or values of any system absent a showing of criticality in a particular recited value. The burden of showing criticality is on applicant. In re Mason, 87 F.2d 370, 32 USPQ 242 (CCPA 1937); Marconi Wireless Telegraph Co. v. U.S., 320 U.S. 1, 57 USPQ 471 (1943); In re Schneider, 148 F.2d 108, 65 USPQ 129 (CCPA 1945); In re Aller, 220 F.2d 454, 105 USPQ 233 (CCPA 1055); In re Saether, 492 F.2d 849, 181 USPQ 36 (CCPA 1974); In re Antonie, 559 F.2d 618, 195 USPQ 6 (CCPA 1977); In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Since Hoffman in view of Yin in further view of Sriram discloses the use of weights, any value for the weights, including having the weights be of equal value, would have been obvious absent a showing of criticality by Applicant.

### ***Conclusion***

44. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Parruck et al (USPN 6,198,723) see entire document, especially col. 9, line 66-col. 11, line 25 which discloses a scheduling system in which each of the queues are capable of holding one or more packet identifiers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Ryman whose telephone number is (703)305-6970. The examiner can normally be reached on Mon.-Fri. 7:00-5:00 with every other Friday off.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (703)308-6602. The fax phone number for the organization where this application or proceeding is assigned is (703)308-6743.

Art Unit: 2665

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

Daniel J. Ryman  
Examiner  
Art Unit 2665

<sup>DJR</sup>  
Daniel J. Ryman

  
HUY D. VU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600